

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INQUIRY INTO THE PROVISION AND)	ADMINISTRATIVE
REGULATION OF CELLULAR MOBILE)	CASE NO. 344
TELEPHONE SERVICE IN KENTUCKY)	

O R D E R

This matter arising upon petition of Horizon Cellular Telephone Company of Spencer, L.P. ("Horizon Cellular") filed September 16, 1993, pursuant to 807 KAR 5:01, Section 7, for confidential protection of the company's projected rate of return and the underlying financial data upon which the projection is based filed in response to Item 18 of the Commission's Order, and terms of the purchase of the FCC license and the names of the owners from whom the license was obtained filed in response to Item 19(b) of the Commission's Order on the grounds that disclosure of the information is likely to cause Horizon Cellular competitive injury, and it appearing to this Commission as follows:

On June 21, 1993, the cellular telephone companies who are a party to this proceeding, including Horizon Cellular, were ordered by the Commission to furnish certain information relative to their operations. Item 18 of that Order requested each company's projected rate of return and the computations upon which the projections were made. Item 19(b) requested the terms and conditions of the purchase of each company's FCC license, including the cost of acquisition and the names of the owners of the selling

company. Horizon Cellular has furnished the information and petitioned the Commission to protect the information as confidential.

Horizon Cellular treats the information sought to be protected as confidential business information. Horizon Cellular strictly limits the distribution of the information to those employees who need access to the information in order to conduct Horizon Cellular's business.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That section of the statute exempts 11 categories of information. One category exempted in subparagraph (c) of that section is commercial information confidentially disclosed to the Commission. To qualify for that exemption, it must be established that disclosure of the information is likely to cause substantial competitive harm to the party from whom the information was obtained. To satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

Information concerning Horizon Cellular's projected rate of return and the underlying financial data upon which the projection is based, and the information pertaining to the terms of the purchase of the FCC license provide significant costs of Horizon

Cellular's business which competitors could use in structuring their own rates and services. Therefore, disclosure of the information is likely to cause Horizon Cellular competitive injury and the information should be protected as confidential.

The petition, however, does not demonstrate how disclosure of the cost of acquisition of the FCC license and the identity of the owners of the company from whom the FCC license was obtained would provide any advantage to competitors and the petition to protect that information should be denied.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The projected rate of return and the underlying financial data upon which the projections were based and the terms of the purchase of the FCC license, which Horizon Cellular has petitioned be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

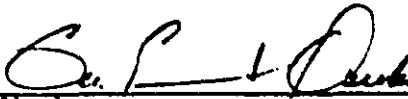
2. The petition to protect as confidential the cost of acquisition of the FCC license and the names of the owners of the company from whom Horizon Cellular purchased the FCC license be and is hereby denied.

3. The cost of acquisition of the FCC license and the names of the owners of the company from whom Horizon Cellular purchased its FCC license shall be held and retained by this Commission as confidential for a period of 20 days, at the expiration of which it shall be placed in the public record without further orders herein.

On or before 20 days from the date hereof, Horizon Cellular shall file an edited copy of its responses to the Commission's Order of June 21, 1993, for inclusion in the public record obscuring only that information protected by paragraph 1 of this Order.

Done at Frankfort, Kentucky, this 14th day of December, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:



Executive Director